

UNITED STATES DISTRICT COURT

for the

Eastern District of California

United States of America
v.

MARCOS LUCERO

Defendant(s)

Case No.

2:21-mj-0147 AC

FILED

Sep 16, 2021

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 13, 2021 to September 15, 2021 in the county of Solano and Sacramento in the Eastern District of California, the defendant(s) violated:

Code Section	Offense Description
18 U.S.C. § 2251(a)	Production of Child Pornography
18 U.S.C. § 2252(a)(2)	Receipt of Child Pornography
18 U.S.C. § 2422(b)	Coercion and Enticement

This criminal complaint is based on these facts:

(see attachment)

☒ Continued on the attached sheet.

/s/ Orcina A. Pacheco-Garcia

Complainant's signature


Orcina A. Pacheco-Garcia, Special Agent, FBI

Printed name and title

Sworn to before me telephonically.

Date: September 16, 2021

City and state: Sacramento, California


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

**AFFIDAVIT OF SPECIAL AGENT ORCINA A. PACHECO-GARCIA
IN SUPPORT OF COMPLAINT**

I, Orcina A. Pacheco-Garcia, being duly sworn, depose and state:

1. I am a Special Agent with the Federal Bureau of Investigation and have been since March 2019. As part of my daily duties, I investigate criminal violations relating to child exploitation and child pornography, including, but not limited to, violations pertaining to the illegal production, distribution, receipt, possession of, and access with intent to view, child pornography, in violation of 18 U.S.C. §§ 2251, 2252, and 2252A. I am familiar with the federal definition of child pornography as stated in 18 U.S.C. §2256(8). Moreover, I am a federal law enforcement officer who is engaged in enforcing the criminal laws, including 18 U.S.C. §§ 2251, 2252, and 2252A.

2. I have received training in the area of identifying and investigating child pornography and child exploitation crimes, and as part of my duties have observed and reviewed numerous examples of child pornography in all forms of media, including computer media. The following information is based upon the investigation that I have conducted and upon my conversations with other law enforcement officers, including, but not limited to, officers involved in investigations and undercover operations involving child pornography and child exploitation.

INTRODUCTION

3. On or about August 13, 2021, the minor victim (“VICTIM”) who resides within the Eastern District of California, met the defendant, Marcos LUCERO (“LUCERO”) online through the application Zepeto. Users can interact with others in chatrooms and games within Zepeto.

4. LUCERO used a Gmail account to contact the VICTIM’s Gmail account. From on or about August 13, 2021 to August 19, 2021, Lucero and the VICTIM engaged in multiple

conversations concerning sex, and exchanged photos of child pornography and child erotica. Based on these email exchanges and text message conversations, LUCERO was knowingly using, persuading, inducing, and enticing the VICTIM to produce visual depictions of minors engaged in sexually explicit conduct, and then receiving the visual depictions within the definition in 18 U.S.C. § 2256 from the VICTIM. For that reason, this affidavit is made in support of a criminal complaint and application for an arrest warrant for LUCERO for production and receipt of child pornography.

5. On August 26, 2021, FBI Online Covert Employee (OCE), responded to Gmail emails from LUCERO to VICTIM's account. On August 30, 2021, the OCE disclosed his/her undercover phone number to the subject and began exchanging text messages.

6. As LUCERO continued use means and facilities of interstate or foreign commerce to communicate with FBI OCE in the persona of the VICTIM, he expressed an interest in driving from his home in Santa Ana, California to Sacramento area, California, to meet the VICTIM for the purposes of having sex with the VICTIM. For that reason, this affidavit is made in support of a criminal complaint and arrest warrant for LUCERO for attempted coercion and enticement.

7. The statements in this affidavit are based in part on information provided by other law enforcement agents, as well as my own investigation of this matter. This affidavit is being submitted for the limited purpose of securing an arrest warrant after a probable cause arrest, therefore I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that LUCERO has violated 18 U.S.C. §§ 2251(a), 2252(a)(2), and 2422(b).

STATUTORY AUTHORITY

8. This affidavit is submitted to establish that there is probable cause to believe that LUCERO committed violations of 18 U.S.C. § 2251, relating to production of child pornography, and § 2252, relating to possession, receipt, and distribution of material involving the sexual exploitation of minors.

- 18 U.S.C. § 2251(a) prohibits any person who employs, uses, persuades, induces, entices, or coerces any minor to engage in any sexually explicit conduct for the purpose of producing any explicit depiction of such conduct or for the purpose of transmitting a live depiction of such conduct. 18 U.S.C. § 2251(e) punishes attempts to violate this statute.
- 18 U.S.C. § 2252(a)(2) prohibits the knowing receipt or distribution, by computer or mail, of any visual depiction of minors engaging in sexually explicit conduct, if the visual depiction has been mailed, shipped, or transported in interstate or foreign commerce, or if it contains materials that have been so mailed, shipped, or transported, by any means, including by computer.

9. This affidavit is also submitted to establish that there is probable cause to believe that LUCERO committed a violation of Title 18, United States Code, Section 2422(b) – coercion and enticement. 18 U.S.C. § 2422(b) prohibits a person from using a means or facility of interstate or foreign commerce to knowingly persuade, induce, entice, or coerce any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense.

DEFINITIONS

10. The following non exhaustive list of definitions applies to this Affidavit:

a. “Child Pornography” includes the definition in 18 U.S.C. § 2256(8), any visual depiction of sexually explicit conduct where (a) the production of the visual depiction involved the use of a minor engaged in sexually explicit conduct, (b) the visual depiction is a digital image, computer image, or computer generated image that is, or is indistinguishable from, that of a minor engaged in sexually explicit conduct, or (c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaged in sexually explicit conduct.

b. “Visual depictions” include undeveloped film and videotape, and data stored on computer disk or by electronic means, which is capable of conversion into a visual image. See 18 U.S.C. § 2256(5).

c. “Minor” means any person under the age of eighteen years. See 18 U.S.C. § 2256(1).

d. “Sexually explicit conduct” means actual or simulated (a) sexual intercourse, including genital-genital, oral-genital, or oral-anal, whether between persons of the same or opposite sex; (b) bestiality; (c) masturbation; (d) sadistic or masochistic abuse; or (e) lascivious exhibition of the genitals or pubic area of any persons. See 18 U.S.C. § 2256(2).

e. “Computer” is defined pursuant to 18 U.S.C. § 1030(e)(1), as “an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device.”

f. The “Internet” is defined as a worldwide network of computers. It is a self governing network devoted mostly to communication and research and has millions of users worldwide. The Internet is not an online service but a collection of tens of thousands of computer networks, online services, and single user components.

g. The Uniform Resource Locator (URL) is the address of a resource or file located on the Internet, also called a “domain name”.

h. “Internet Service Providers” or “ISPs” are commercial organizations, which provide individuals and businesses access to the Internet. ISPs provide a range of functions for their customers including access to the Internet, web hosting, e mail, remote storage, and co location of computers and other communications equipment. ISPs can offer various means by which to access the Internet including telephone based dial up, broadband based access via a digital subscriber line (DSL) or cable television, dedicated circuits, or satellite based subscription. ISPs typically charge a fee based upon the type of connection and volume of data, called bandwidth that the connection supports. Many ISPs assign each subscriber an account name such as a user name or screen name, an e mail address, and an e mail mailbox and the subscriber typically creates a password for the account. By using a computer equipped with a telephone or cable modem, the subscriber can establish communication with an ISP over a telephone line or through a cable system, and can access the Internet by using his or her account name and password.

i. “ISP Records” are records maintained by ISPs pertaining to their subscribers (regardless of whether those subscribers are individuals or entities). These records may include account application information, subscriber and billing information, account access information (often times in the form of log files), e mail communications, information concerning content uploaded and/or stored on or via the ISP’s servers, and other information, which may be stored both in computer data format and in written or printed record format. ISPs reserve and/or maintain computer disk storage space on their computer system for their subscribers’ use. This service by ISPs allows for both temporary and long term storage of electronic communications and many other types of electronic data and files.

j. “Internet Protocol address” or “IP address” refers to a unique number used by a computer to access the Internet. IP addresses can be dynamic, meaning that the Internet Service Provider (ISP) assigns a different unique number to a computer every time it accesses the Internet. IP addresses might also be static, if an ISP assigns a user’s computer a particular IP address which is used each time the computer accesses the Internet.

k. “Hash value” refers to a mathematical algorithm generated against data to produce a numeric value that is representative of that data. A hash value may be run on media to find the precise data from which the value was generated. Hash values cannot be used to find other data.

l. A “JPEG” is a graphic image file. Other known graphic image files include “GIF”, “TIFF”, “RAW”, and “BMP”.

m. An “MPEG” is a video image file. MPEG files are generally larger than JPEG files and require the user to have a computer with sufficient processor speed, internal memory, and empty hard disk space. MPEG viewer software is also needed to play the files.

PROBABLE CAUSE

11. On or about August 13, 2021, the VICTIM, who resides within the Eastern District of California, met LUCERO, online through the application Zepeto. Users can interact with others in chatrooms and games within the application. LUCERO and the VICTIM exchanged Gmail email addresses to communicate outside of Zepeto, with the LUCERO’s account identified as upbackred223@gmail.com.

12. LUCERO, or communications from the subject, will be referred to as ML and VICTIM, or communications purporting to be the victim will be referred to as VA in the following transcriptions of Gmail emails, text messages, or other communications. The following are e-

mails / Hangouts chats between LUCERO and the VICTIM's account between August 13 and 19:

...

ML: How big is your tits

VA: *B cup//Is that ok*

ML: Mmm i will loe to suck n bit n slap your tits

VA: *Mmm I'm getting horny*

...

VA: *Can you show me your dick//Pleaseeeee*

ML: I am play with my dick thinking about u

VA: *Cute love can I call you daddy*

ML: [sent penis photo]¹//Sent me a pic//Yes u can call me daddy

VA: *Of what tit pussy//What you want daddy*

ML: Both//Tits n pussy//What are u doing baby

VA: *[sent three photos]²//I'm alone in my room not in the whole house tho*

13. From on or about August 13, 2021 to August 19, 2021, LUCERO and VICTIM's account engaged in multiple sexual conversations and exchanged photos of child pornography and child erotica. This is apparent as the Google Gmail emails/chats are labeled with the display name "Macros Lucero", Gmail account "upbackred223@gmail.com"³ and VICTIM ACCOUNT respectively.

14. On or about August 19, 2021, the VICTIM's parents discovered her online activity, and

¹ The photo LUCERO sent was of an erect penis as the focus of the image. The image appears as if the LUCERO is laying on his bed, shorts around his ankles, exposing his legs, shaft of the penis, and pubic hair. In the background, you can see a drawer with items on top and a cubby storage area.

² The second of three photos VICTIM ACCOUNT sent is centered around a young vagina, spread open by her fingers in the seated position, exposing the inside of her vagina and showing pubic hair. Also in view of the photo are her inner thighs, stomach, and gray bra.

The third of three photos VICTIM ACCOUNT sent is centered around a young vagina, spread open by her fingers in the seated position, exposing the inside of her vagina and showing pubic hair. Also in view of the photo are her inner thighs, stomach, and exposed breasts.

³ On September 3, 2021, law enforcement completed database checks on upbackred223@gmail.com. One database reported that upbackred223 was involved in suspicious financial activity. The individual utilizing the upbackred223 account was identified as Marcos Lucero, by date of birth and home address. In addition, law enforcement records identified upback@yahoo.com as an additional email address for Lucero.

the VICTIM and her parents allowed the FBI to take over the VICTIM'S e-mail and messaging accounts.

15. VICTIM confirmed that she was 11 years old during a Child/Adolescent Forensic Interview (CAFI) on August 20, 2021 at the FBI Sacramento office.

IDENTIFICATION OF LUCERO

16. On September 3, 2021, law enforcement checks were completed on upbackred223@gmail.com. From February 2, 2020 through March 3, 2020, JP Morgan Chase reported various counterfeit checks and identity theft activity listing MARCOS LUCERO as a suspect. The emails used for those financial transactions were marcoslucero633@yahoo.com and upbackred233@gmail.com. The individual utilizing the upbackred223 username was identified as MARCOS LUCERO. According to the Santa Ana Police Department, on July 14, 2021, LUCERO was booked on a domestic violence complaint; reports and booking information listed LUCERO's home address in Santa Ana, CA. The domestic violence charges were not adjudicated.

17. According to the California Department of Motor Vehicles, LUCERO's registered vehicle is a 2017 Toyota, license plate 7WDD928 with the registered physical address consistent with LUCERO's home address. On September 13, 2021, surveillance checks conducted at LUCERO's home saw LUCERO's registered vehicle parked outside of the residence. In addition, Accurint law enforcement database checks identify upback@yahoo.com as an additional email address for LUCERO and list the home address in Santa Ana, CA as his current address.

18. According to a Hanover County Sheriff's Office report in May 2019, Lucero was identified as possibly possessing child pornography from an additional minor victim located in

the state of Virginia. The complaint information was sent to Santa Ana Police Department for further investigation. No further investigation was conducted on Marcos Lucero concerning the complaint information.

FBI ASSUMES ONLINE IDENTITY

19. On August 26, 2021, an FBI Online Covert Employee (OCE), responded to Gmail emails from Marcos Lucero to the VICTIM's account. On August 30, 2021, the OCE disclosed his/her phone number to the subject and engaged in the various text messages with the subject's phone number ending in 8141. Based on the texts, it appeared that the VA told LUCERO her age earlier, and the LUCERO knew her true age. The below is a summarized dialogue:

ML: Happy Birthday//U tell me once u was 11

OCE: Yea ur right 😞 I just don't like people knowing I'm that young//But I can trust u right?

ML: Idc baby//U still my babygirl

...

ML: How old are you really

OCE: 11 no lie [handshake emoji] promos [sic]

...

OCE: R u really 30? I like that ur older ;)

ML: Yee//Where are u from

OCE: Vacaville and Sacramento// My parents divorced so I go back and forth

ML: One for this i promise i will seeu [sic]//One for this day i will see u

OCE: In person [excited emojis and hug emoji]?!?!]

ML: Yes

OCE: Omg I can't wait for that day...

ML: I may go for a vacation

OCE: It would have to be when I'm with my mom. She doesn't care what I do...

ML: Okay Baby//Can u spent [sic] the night

...

OCE: Yes! She leaves me alone all the time//...she's too busy with her boyfriends to care

ML: Can we be in your room//Or i get a room just for us

OCE: Yes I go stay friends all the time. Sometimes she'll leave and sleep at her boyfriends...I get left all alone

ML: lol will they get mad if your friend u in a room with a older guy

OCE: ...she doesn't care. I don't tell them my business

ML: Will u let me cum inside your Pussy//I can buy plan b

OCE: Yes it wud be first time so I would want to know the feeling//I won't get sick from taking plan b right?

ML: U will not get sick//It will kill my sperm for u to not get pregnant

OCE: That's perfect...yummy

20. The conversation continued, with Lucero asking if the OCE would be on her period and if the OCE's minor friends could watch them having sex. LUCERO wanted to know if the OCE has ever been to Orange County and if she would be visiting soon so they could meet.

21. On September 1, 2021, the OCE received various text messages from Lucero to include the image of an erect male penis. The following are summarized text messages after LUCERO sent the penis image.

OCE: Will it hurt a little? When U first put it inside me?

ML: Idk maybe. But I will need to Get u wet n horny

...

ML: What are you doing baby

OCE: Super wet... it doesn't take much get wet

ML: Mmmm

...

OCE: Wat kind of things will u do to me before sex?

ML: Kiss u n suck n bit your lip neck//take off your clothes

...

OCE: Have u had sex with a virgin before?

ML: No

OCE: So I'd be ur first [Heart Eye Emoji]?!

ML: U will be my first//Honest my dream to have 2 girl to suck my dick fast time//Yes baby

22. LUCERO then sent a ten second video of an erect penis ejaculating. LUCERO discussed plans on seeing OCE during the weekday. He said they would need to find a place. LUCERO asked the OCE what they would tell people if they saw them together. LUCERO then stated they would tell people that he was her dad and he adopted her if they did not look similar. He said he would first need to get money. Followed by the following messages:

ML: Will u let m cum inside your Pussy or no

OCE: Yes baby i told u I wud//I promise// Just make sure u have the thing u said

ML: Buy a plan b

23. On September 3, 2021, the following text messages were exchanged:

ML: I will need to make money for the gas n the room n good
OCE: *But u have to be gentle the first time we sex k? Promise?*
ML: Food//Yes baby/ I promise
OCE: *How long before u come see me 😞????*
ML: When i get the money i promise i will go// I am sorry
OCE: *K!*
ML: Are you mad at me
OCE: *No baby I just cant wait!!!!*
ML: Sorry it is a long drive//I will need a lot for gas to go n come back n food n i may get the room for 2 day// I can make it I have drive to las Vegas and to Nevada same day

24. On September 6, 2021, LUCERO requested a picture of the OCE. When asked what type of picture he wanted he said “surprise me.” The OCE then sent a picture of the front of her shirt and the bottom of her face mask. Only a small portion of her neck and arm skin could be seen. No face was shown in the image. The following are excerpts of the text exchanges:

ML: If you do it do you want it with a condom or without
OCE: *Idk baby wat do u think?? How will it feel with a condom?*
ML: Like plastic//Cuz I do not know if you are allergic to latex
...
ML: Where do u want me to cum at
OCE: *Hmm how bout a napkin*
ML: Okay baby//I will buy plan b if that happen
OCE: *Yumm yes daddy*
ML: Buy plan b if i cum inside your Pussy
OCE: *Yes baby I cant wait//I want u inside me*
ML: Plus I don’t know if you are allergic to latex and I really do not want to try
...
ML: Sorry it is a question u can said no will u let me fuck u on the ass
OCE: *Hmmm idk wont that hurt me?*
ML: Yes it is your first time//like me fuck u// it will hurt u

25. In later chats on September 6, 2021, Lucero stated he had two ex-girlfriends who were 21 and 15-years-old. He stated he did not have sex with the 15-year-old girlfriend. Lucero stated he has had sex with twenty or more girls. He said one of the girls he had sex with was fifteen years old but she was not his girlfriend; Lucero stated "I cum inside her Pussy."

26. On September 7, 2021, Lucero asked OCE if she had money to pay for a room and if she could find a motel by her mom's house. OCE sent him a Google search of a Motel 6 located in Sacramento, CA. The following are excerpts of the text exchanges:

ML: How close is that to u

OCE: Really close. I can walk to there [Girl Emoji]

...

ML: lol u will eat my baby

OCE: ?

ML: My cum//Do u get it

OCE: [Girl emoji shrugging] idk how does it taste?

ML: Idk//I can be your first on everything

OCE: Yesss...mmmm//Will u taste me daddy

ML: Yes//Lol u will be like how those cum taste//You have my permission to suck my dick is i sleeping//i cant wait//I got my first check

...

ML: Part for me want to go rn

...

OCE: I know I wanna see you

ML: I need to save more money//I was close to use your pic to scam people

OCE: Why wud u do that???//The one I just sent u?!

ML: No the other//One⁴//I was not going to do it i promise

OCE: But how wud u scam people?

ML: I was thinking about it//Your age

OCE: Wat wud u try and get from them?

ML: Money

OCE: So u still have my pics baby [Smile Shy Emoji]//I thought u prob deleted them by now

ML: Yes baby why//Nooo

OCE: Idk I just thought I was another girl

ML: Nooo baby

OCE: I luv u [Kissing Emoji]

ML: U know they are alot for guy that will pay alot for money//I love u too [Heart Emoji]

OCE: I know. But u wud hurt me if u did that// [Sad Crying Emoji]//Those were only for u

ML: They are my pic

OCE: Are u lying? Have u sold them?

ML: Nooo//I promise//I have not

OCE: Ok...I believe u

ML: Lol if i did i will buy u a gift card

OCE: No money wud satisfy me//No money is worth the trust I've given u

⁴In the prior Gmail conversations between Lucero and Victim Account, the victim emailed three child sexual abuse material images to Lucero. The victim stated these were the only three pictures sent to Marcos.

ML: True that//First i will ask u if I can

...

OCE: I also check my cash savings and I have \$365 to help :) that shud be enough for gas and stuff right?// I just don't have a credit card

ML: Damm that a lot for money//Yes

27. On September 8, 2021, Special Agents telephonically interviewed the VICTIM, who stated she produced the images shared with upbackred223@gmail.com on August 13, 2021, specifically at Lucero's request. The photos were taken, shared and deleted from VICTIM's device. These were the only files she sent to Lucero.

28. On September 8, 2021, the OCE received a text from Lucero in which he stated "what happen if i said yes but i use all your money." OCE agreed with Lucero taking the money and said she does not use the cash. On September 8, 2021, the OCE placed an undercover voice call to LUCERO's phone. OCE asked LUCERO when he would be traveling to see her. LUCERO responded he was planning on traveling Wednesday, September 15, 2021, but would confirm early next week.

29. On September 9, 2021, the following text messages were exchanged:

ML: Can i ask u something dirty

OCE: Ask me anything baby ;)

ML: Sorry i am fuck horny//I will love to video chat with u

OCE: Yea nah...//Sorry baby :(

ML: It is love// It is ok my love//Sorry can I take pic for u n video for u when we together//If we are make love

OCE: ? huh

ML: When we have sex can I video it

OCE: Do want to?

ML: It will be hot if u are ok with it

OCE: Why do want to film it baby?

ML: I can watch it over n over n over//Remember how tight your Pussy

OCE: R u gonna share it?

ML: Fuck nooo//My eyes only

OCE: How wud u film it?

ML: My phone

...

ML: Will u sent the night when i get there and will u sent the day n night with me

30. On September 10, 2021, the following text messages about travel plans were exchanged:

OCE: R u still coming to see me? I told my dad I am gonna be at my moms next week

ML: If I don't get it you will see me next week

OCE: So excited [Excited Emoji] and a lil nervous [Smiling Emoji]

ML: Me too// It'll be a nice drive

31. In later chats on September 10, 2021, LUCERO stated he was in the shower and sent the OCE a video depicting the face and body of a male ejaculating inside the shower. LUCERO also sent an image of his penis inside the shower and requested a picture from the OCE. The OCE asked LUCERO what type of picture he wanted. LUCERO stated, "Your face n your body n your tits n your ass n your pussy n your voice." LUCERO attempted to send voice messages to OCE however the voice messages were not clear. In an attempt to send more voice mails, LUCERO used a different phone, phone number ending in 8507. He sent two additional voice messages from 8507 and through text stated it was him sending the voice messages.

32. On September 12, 2021, the following text messages were exchanged:

OCE: Babe are you sure you wanna see me? If your not ready...no biggie... just tell me

ML: Yes and no// Yes cuz I want to do something for me//And no I don't want to get in trouble and i don't want to force u//I don't know if u are really going to come//and how will u come inside the room//And what happen of they stop u n ask u where are u going// Yes I really do want to see u//Are u ready

OCE: I walk there all the time to go to Scandia park with my friends// Yes I've been ready for u baby

...

ML: K love//Should i leave the keys somewhere// Honest when i get there i will be sleeping//for u to open the door to come in//Now i am thing where should i leave the keys

OCE: Idk [Shrugging Emoji] windshield of u car?

ML: True or top for my Tire//Can u get for the house anytime u want//Get out from the house anytime u want

OCE: Yea babe I told my mom is chill

ML: I sleep naked// What will u do if u see me naked in the bed

OCE: I can also go to my cousins in Fresno. But I cant sneak u in their house.// Up to u babe//But I don't wanna go to Fresno if u are not ready.

ML: But can u stay the night

OCE: Fresno is boring...

ML: Can u spent 2 night with me

OCE: I've stayed at my friends Lizzies house before

ML: If u go to Fresno//thinking of u anyway you can get close to here

OCE: I'll just let her know im gonna go see my friend//That's as close as I can get//Sorry [Shrugging Emoji]

ML: I know// It is 3 hours drive

OCE: I wish I was old enough to drive. [Sad Face Emoji]//Can't wait till I can!

ML: Sorry I was think how will drive 6 hours//Can u find a motel close to your cuz or your friend house//Where will u go//plz

OCE: K

33. One September 12, 2021, OCE then sent LUCERO a Google link to a Motel 6 at 445 N Parkway, Fresno, CA 93706. LUCERO called the OCE on a recorded voice call. During the conversation they discussed meeting and how they were both excited to see each other. OCE told LUCERO she had online classes and would not be able to meet until after 2:00 pm. Marcos said he would be leaving work and then driving to the hotel. He said he would be asleep but the OCE could walk into the room. LUCERO said he would be naked and asked the OCE what she would do when she saw him naked. The OCE stated she would let him sleep and or touch him. The following text messages were sent after the voice call:

ML: So \$212//Not bad//The \$1202 is for the rooms for two nights with the security deposit//212 dollars//\$212 with a security deposit and the two nights//not bad

34. Also on September 12, 2021, the OCE received confirmation from the LUCERO stating that he would travel on Wednesday, [September 15, 2021], his day off, and he would be meeting the OCE at the motel. LUCERO said he would be arriving between 9AM and 12PM. LUCERO stated that he would be leaving the motel key somewhere near his car, either underneath the tire, or on the windshield.

LUCERO DRIVES TO FRESNO

35. On September 15, 2021, OCE received text communications from LUCERO as he traveled to meet the OCE. In addition, LUCERO requested the OCE to contact him via voice call. The OCE placed an undercover voice call to LUCERO in which they talked about the

OCE's school work. The OCE asked if she could go into the lobby with LUCERO to check into the room. LUCERO said no because she looks young and asked the OCE to sit inside the car. LUCERO suggested they drive to another location when the OCE arrives so they can make out and "warm up" in the car.

36. At approximately 12:00 PM PST, LUCERO arrived at the Motel 6 at 445 N Parkway, Fresno, CA 93706 in a red Toyota, license plate 7WDD928, registered to LUCERO. LUCERO texted the OCE at approximately 12:21 PM PST and informed the OCE he was at the location. According to a source at the hotel, LUCERO had attempted to check into the motel early but was told he needed to wait until check in time. At approximately 12:39 PM PST, law enforcement units executed the search warrant on the person of LUCERO and his vehicle at the motel. Upon detention, LUCERO identified himself as MARCOS LUCERO residing at his home address in Santa Ana, CA.

37. During a *Mirandized* interview, LUCERO admitted to being at the hotel for the purposes of meeting the VICTIM. LUCERO admitted to knowing that the VICTIM was a minor and sending her sexual messages. LUCERO stated he had no intention on staying at the hotel room with the OCE and said he was simply going to watch movies with her. LUCERO stated he had previously received nude photos of the VICTIM. He stated the images were sent to his email address at "upbackred223@gmail.com." LUCERO stated he had deleted the photos. LUCERO wrote and signed an apology letter to the parents of the minor.

CONCLUSION

38. Based on the aforementioned factual information, I respectfully submit that there is probable cause that MARCOS LUCERO, aka upbackred223@gmail.com, committed the following offenses:

COUNT ONE – Sexual exploitation of a child

MARCOS LUCERO knowingly directed minors to produce and send him child pornography via Gmail and texting between August 13, 2021 and September 12, 2021 in violation of 18 U.S.C. § 2251(a).

COUNT TWO – Receipt of Child pornography

MARCOS LUCERO confirmed receipt of child pornography images between August 13, 2021 and August 19, 2021 in violation of 18 U.S.C. § 2252(a)(2).

COUNT THREE – Attempted Coercion and Enticement.


MARCOS LUCERO used facilities and means of interstate and foreign commerce to attempt to persuade, induce, entice, and coerce an individual who had not attained the age of 18 years to engage in sexual activity for which any person can be charged with a criminal offense, beginning on August 13, 2021 to September 15, 2021 in violation of Title 18, United States Code, Section 2422(b).

I swear, under penalty of perjury, that the foregoing information is true and correct, to the best of my knowledge, information and belief.

/s/ Orcina A. Pacheco-Garcia

Orcina A. Pacheco-Garcia
Special Agent
Federal Bureau of Investigation

Subscribed and sworn telephonically
this 16th day of September, 2021


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

Approved as to form:

/s/ ROGER YANG
ROGER YANG
Assistant United States Attorney

United States v. Marcos Lucero
Penalties for Criminal Complaint

Defendant
MARCOS LUCERO

COUNT 1: **MARCOS LUCERO**

VIOLATION: 18 U.S.C. § 2251(a) – Sexual Exploitation of a Child

PENALTIES: Mandatory minimum of 15 years in prison and a maximum of up to 30 years in prison; or
Fine of up to \$250,000; or both fine and imprisonment
Supervised release of at least 5 years up to life

SPECIAL ASSESSMENT: \$100 (mandatory on each count); up to \$50,000 if the defendant is not indigent under §2259A(a)(3); \$5,000 under § 3014 if the JVTA special assessment is renewed after September 30, 2021.

COUNT 3: **MARCOS LUCERO**

VIOLATION: 18 U.S.C. § 2252(a)(2) – Receipt of Child Pornography

PENALTIES: Mandatory minimum of 5 years in prison and a maximum of up to 20 years in prison; or
Fine of up to \$250,000; or both fine and imprisonment
Supervised release of at least 5 years up to life

SPECIAL ASSESSMENT: \$100 (mandatory on each count); up to \$35,000 if the defendant is not indigent under §2259A(a)(2); \$5,000 under § 3014 if the JVTA special assessment is renewed after September 30, 2021.

COUNT 3: **MARCOS LUCERO**

VIOLATION: 18 U.S.C. § 2422(b) – Attempted Coercion and Enticement

PENALTIES: Mandatory minimum of 10 years in prison and a maximum of up to life in prison; or
Fine of up to \$250,000; or both fine and imprisonment
Supervised release of at least 5 years up to life

SPECIAL ASSESSMENT: \$100 (mandatory on each count); \$5,000 under § 3014 if the JVTA special assessment is renewed after September 30, 2021.

FORFEITURE ALLEGATION: Defendant

VIOLATION: 18 U.S.C. § 2253(a) - Criminal Forfeiture

PENALTIES: As stated in the charging document